



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-549-838]

Glycine from Thailand: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) determines that countervailable subsidies are not being provided to producers and exporters of glycine from Thailand. In addition, we determine that critical circumstances do not exist with respect to imports of the subject merchandise. The period of investigation (POI) is January 1, 2017 through December 31, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: George Ayache, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2623.

SUPPLEMENTARY INFORMATION:

Background

The petitioners in this investigation are GEO Specialty Chemicals, Inc. and Chattem Chemicals, Inc. (collectively, the petitioners). In addition to the Royal Thai Government (RTG), the mandatory respondent in this investigation is Newtrend Food Ingredient (Thailand) Co., Ltd. (Newtrend Thailand).

The events that occurred since Commerce published the *Preliminary Determination*¹ are discussed in the Issues and Decision Memorandum.²

Commerce exercised its discretion to toll all deadlines affected by the partial federal government closure from December 22, 2018 through the resumption of operations on January 29, 2019.³ Commerce revised the deadline for the final determination in this investigation to April 24, 2019.

On March 18, 2019, the petitioners submitted new factual information (NFI) on the record of this investigation, which included the notice of U.S. Customs and Border Protection's (CBP's) commencement of a formal investigation and imposition of interim measures (*CBP Interim Measures*) under Title IV, Section 421 of the Trade Facilitation and Trade Enforcement Act of 2015 (also referred to as the Enforce and Protect Act or EAPA).⁴ Commerce accepted the NFI and provided interested parties with an opportunity to comment. On April 24, 2019, Commerce postponed until further notice the issuance of the final determination in this investigation, in order to further investigate this matter.⁵ We subsequently issued to Newtrend Thailand additional requests for sales and cost information relevant to this matter. Newtrend

¹ See *Glycine from Thailand: Preliminary Negative Countervailing Duty Determination, Preliminary Negative Critical Circumstances Determination, and Alignment of Final Determination with Final Antidumping Duty Determination*, 83 FR 44861 (September 4, 2018) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum (PDM).

² See Memorandum, "Glycine from Thailand: Issues and Decision Memorandum for the Final Negative Determination of the Countervailing Duty Investigation," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum to the Record from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Partial Shutdown of the Federal Government," dated January 28, 2019. All deadlines in this segment of the proceeding have been extended by 40 days.

⁴ See Petitioners' Letter, "Glycine from Thailand: Request to Accept U.S. Customs and Border Protection's Interim Measures," dated March 18, 2019.

⁵ See Memorandum from Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Jeffrey I. Kessler, Assistant Secretary for Enforcement and Compliance, "Postponement of the Final Determinations in the Less-Than-Fair Value and Countervailing Duty Investigations of Glycine from Thailand," dated April 24, 2019.

Thailand timely responded to these requests for information, and Commerce subsequently conducted verification of the additional information submitted.

We invited interested parties to comment on the *Preliminary Determination* and on events that occurred since the publication of that determination. A detailed summary of the events that occurred in this investigation since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, can be found in the Issues and Decision Memorandum.

Scope of the Investigation

The product covered by this investigation is glycine from Thailand. For a full description of the scope of this investigation, *see* the “Scope of the Investigation” in Appendix I of this notice.

Scope Comments

We invited parties to comment on Commerce’s Preliminary Scope Decision Memorandum.⁶ Commerce reviewed the briefs submitted by interested parties, considered the arguments therein, and made no changes to the scope of the investigation. For further discussion, *see* Commerce’s Scope Comments Final Decision Memorandum.⁷

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Issues and Decision Memorandum accompanying this notice. A list of the issues addressed in the Issues and Decision

⁶ *See* Memorandum, “Glycine from India, Japan, the People’s Republic of China and Thailand: Scope Comments Decision Memorandum for the Preliminary Determinations,” dated August 27, 2018 (Preliminary Scope Decision Memorandum).

⁷ *See* Memorandum, “Glycine from India, Japan, the People’s Republic of China and Thailand: Scope Comments Decision Memorandum for the Final Determinations,” dated April 24, 2019.

Memorandum is attached to this notice at Appendix II. The Issues and Decision Memorandum also discusses the comments we received since the *Preliminary Determination* and Post-Preliminary Determination⁸ regarding the subsidy rates calculated for the mandatory respondent and all other producers/exporters. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Methodology

Commerce conducted this investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the Act). For each of the subsidy programs found countervailable, Commerce determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that gives rise to a benefit to the recipient, and that the subsidy is specific.⁹ For a full description of the methodology underlying our final determination, *see* the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, during November 2018 and June 2019, Commerce conducted verifications of the information reported by the RTG and Newtrend

⁸ See Memorandum, "Decision Memorandum for the Post-Preliminary Analysis in the Countervailing Duty Investigation of Glycine from Thailand," dated February 21, 2019.

⁹ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Thailand. We used standard verification procedures, including an examination of relevant accounting records and original source documents provided by Newtrend Thailand.¹⁰

Changes Since the Preliminary Determination

Based on our review and analysis of the comments received from parties, our verification findings, and the minor corrections presented at verification, we made no changes to the respondents' subsidy rate calculations. For a discussion of the issues, *see* the Issues and Decision Memorandum.

Final Negative Determination of Critical Circumstances

In the *Preliminary Determination*, Commerce explained that a finding of critical circumstances is only relevant if, due to an affirmative preliminary or affirmative final determination, there is a suspension of liquidation.¹¹ However, Commerce preliminarily determined that Newtrend Thailand did not receive any subsidies. Thus, Commerce issued a negative *Preliminary Determination*, did not suspend liquidation, and preliminarily found that critical circumstances did not exist.¹²

For this final determination, we find that Newtrend Thailand received a *de minimis* net subsidy rate and, thus, we have issued a negative final determination. Accordingly, we continue to find that critical circumstances do not exist.

¹⁰ For a discussion of our verification findings, *see* the following Memoranda, "Verification of the Questionnaire Responses of the Royal Thai Government," and "Verification of the Questionnaire Responses of Newtrend Food Ingredient (Thailand) Co., Ltd.," both dated December 7, 2018; "Verification of the Questionnaire Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Countervailing Investigation of Glycine from Thailand with Respect to the Transshipment Allegation," and "2nd Verification of Cost Response of Newtrend Food Ingredient (Thailand) Co., Ltd. in the Countervailing Duty Investigation of Glycine from Thailand," both dated June 20, 2019.

¹¹ *See Preliminary Determination* PDM at 3.

¹² *See Preliminary Determination*, 83 FR at 44862, and PDM at 3.

Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for Newtrend Thailand, the sole producer/exporter of the subject merchandise under investigation. Commerce determines the total estimated net countervailable subsidy rate to be:

| Company | Subsidy Rate |
|---|------------------------------------|
| Newtrend Food Ingredient (Thailand) Co., Ltd. | 0.06 percent (<i>de minimis</i>) |

Commerce has not calculated an all-others rate because it has not reached an affirmative final determination. In the *Preliminary Determination*, the total net countervailable subsidy rate for Newtrend Thailand was zero and, therefore, we did not suspend liquidation. With respect to the final determination, because the rate for Newtrend Thailand is *de minimis*, we are not directing CBP to suspend liquidation of entries of glycine from Thailand.

Disclosure

Commerce will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

International Trade Commission (ITC) Notification

In accordance with section 705(d) of the Act, Commerce will notify the ITC of its determination. As our final determination is negative, this proceeding is terminated.

Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials, or conversion to judicial protective order, is hereby

requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

Notification to Interested Parties

This determination and this notice are issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: July 29, 2019.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is glycine at any purity level or grade. This includes glycine of all purity levels, which covers all forms of crude or technical glycine including but not limited to sodium glycinate, glycine slurry and any other forms of amino acetic acid or glycine. Subject merchandise also includes glycine and precursors of dried crystalline glycine that are processed in a third country, including, but not limited to, refining or any other processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the in-scope glycine or precursors of dried crystalline glycine. Glycine has the Chemical Abstracts Service (CAS) registry number of 56-40-6. Glycine and glycine slurry are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 2922.49.4300. Sodium glycinate is classified in the HTSUS under 2922.49.8000. While the HTSUS subheadings and CAS registry number are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Subsidies Valuation
- V. Analysis of Programs
- VI. Discussion of the Issues
 - Comment 1: Whether to Apply Adverse Facts Available (AFA) to Newtrend Thailand for Third-Country Affiliates Disclosed at Verification
 - Comment 2: Whether Bangkok Bank is an Authority
 - Comment 3: Whether the Provision of Electricity for Less than Adequate Remuneration (LTAR) is Countervailable
 - Comment 4: Whether Commerce Should Have Used Thai Electricity Export Prices as a Benchmark in the Provision of Electricity for LTAR Benefit Calculation
 - Comment 5: Whether the Exemptions of Import Duty on Raw or Essential Materials Imported for Use in Production for Export (Investment Promotion Act (IPA) Section 36) Program is Countervailable
 - Comment 6: Application of AFA
 - Comment 7: *CBP Interim Measures*
- VII. Recommendation

[FR Doc. 2019-16662 Filed: 8/2/2019 8:45 am; Publication Date: 8/5/2019]